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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,941	09/29/2003	Mark Bernard Hettish	2003P08065US	1646

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Siemens Corporation
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

EXAMINER

FEARER, MARK D

ART UNIT	PAPER NUMBER
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2143

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/673,941	Applicant(s) HETTISH ET AL.	
	Examiner MARK D. FEARER	Art Unit 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02/25/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- Applicant's Amendment filed 25 February 2008 is acknowledged.
- Claims 1, 14, 18 and 23-24 have been amended.
- Claims 1-24 are pending in the present application.
- This action is made FINAL.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2-4, 6-7, 10-13, 15-16, 18-19 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farrar et al. (US 6122671 A) in view of Bennett et al. (US 7209950 B2).

Consider claims 1, 18, 23 and 24. Farrar et al. discloses a mobile communications from computer aided dispatch system via customer premises gateway for satellite communication system comprising receiving data from an application. This reads on the claimed "receiving data from an application, said data being indicative of a message" wherein application software is read as an application and the process of translating data into a message is inherently indicative that the data is an intended message ((“The MCS provides services on the Mobile Communicator (AMC) application software so that it can communicate with a satellite modem and exchange data across the satellite network. These services include receiving messages from the application software and packaging them for delivery to the network, receiving data from the network and translating it into application messages’, ...”) column 4 lines 36-44), converting a message to an outgoing message ((“Proforma messages from the CAD application 28, described below, are converted and compressed by the CPG application software 26b from text data into a message carrying binary data. The message carrying binary data is then sent to the CPG middleware 26a software which converts the message to a byte stream for transmission to the LES 24 via the X.25 network 20.”))

column 6 lines 2-8); and sending said outgoing message ((“In order to send the message packet, the communications software constructs and issues the appropriate LES commands, the provided Destination Address information, and the parameters in the packet header.”) column 15 lines 40-44). However, Farrar et al. fails to disclose a method wherein data is indicative of an outgoing message type or a destination address. Bennett et al. discloses a method for a network independent short message delivery system comprising data indicative of an outgoing message assigned with a TypeID and a TypeDesc (column 25 lines 36-47 and Figure 12); a destination address placed into a reformatted message that has a structure that conforms to a second protocol mobile carrier interface format type (Claim 1, column 29 lines 6-44); and a reformatting or a translation process that may be used in sending an SMS message via SMTP email read as the Claimed output message in a different format than its corresponding input message (column 20 lines 1-14 and Figure 5).

Therefore, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to incorporate a method for a network independent short message delivery system comprising data indicative of an outgoing message assigned with a TypeID and a TypeDesc; a destination address placed into a reformatted message that has a structure that conforms to a second protocol mobile carrier interface format type; and a reformatting or a translation process that may be used in sending an SMS message via SMTP email read as the Claimed output message in a different format than its corresponding input message as taught by Bennett et al. with a mobile communications from computer aided dispatch system via

customer premises gateway for satellite communication system comprising receiving data from an application, converting a message to an outgoing message in a format compatible with an outgoing message type, and sending message as taught by Farrar et al. for the purpose of a communications method comprising email messaging.

Consider claim 2, as applied to claim 1. Farrar et al., as modified by Bennett et al., discloses a method comprising: establishing a protocol for receiving data indicative of a message to be sent to a destination address (Bennett et al., column 1 lines 24-50).

Consider claim 3, as applied to claim 2. Farrar et al., as modified by Bennett et al., discloses a method wherein said protocol includes parameters for outgoing message type and destination address (Bennett et al., column 7 line 44 – column 8 line 3).

Consider claims 4 and 19, as applied to claims 2 and 18, respectively. Farrar et al., as modified by Bennett et al., discloses a method wherein said protocol includes parameters for incoming message type and sender address (Bennett et al., column 27 lines 28-38).

Consider claims 6 and 21, as applied to claims 2 and 18, respectively. Farrar et al., as modified by Bennett et al., discloses a method wherein said protocol includes a parameter for a maximum size of said outgoing message (Farrar et al., column 31 lines 28-67).

Consider claim 7, as applied to claim 1. Farrar et al., as modified by Bennett et al., discloses a method wherein said data is indicative of an address associated with a sender of said message (Bennett et al., column 14 lines 7-15).

Consider claim 10, as applied to claim 1. Farrar et al., as modified by Bennett et al., discloses a method wherein said data is indicative of a maximum size for said outgoing message (Farrar et al., column 31 lines 28-67).

Consider claim 11, as applied to claim 10. Farrar et al., as modified by Bennett et al., discloses a method wherein said converting said message to an outgoing message in a format compatible with said outgoing message type includes converting said message into said outgoing message such that said outgoing message does not exceed said maximum size (Farrar et al., column 31 lines 28-67).

Consider claim 12, as applied to claim 1. Farrar et al., as modified by Bennett et al., discloses a method comprising sending a response message to said application, said response message being indicative of a delivery of said outgoing message to said destination address ((“When the communications software sends a message over the network requesting “Service” level acknowledgment, the LES provides a Positive Delivery Notification (PDN) to the DCE when it successfully delivers the message to the destination communications device.”) Farrar et al., column 11 lines 5-8).

Consider claim 13 and 22, as applied to claim 1. Farrar et al., as modified by Bennett et al., discloses a method comprising sending a response message to said application, said response message being indicative of an error in delivery of said outgoing message to said destination address ((“Likewise, if the LES is unable to deliver the message, a Negative Delivery Notification (NDN) is provided to the DCE.”) Farrar et al., column 11 lines 8-10).

Consider claim 15, as applied to claim 1. Farrar et al., as modified by Bennett et al., discloses a method comprising determining that said outgoing message was not delivered to said destination address (“If an error occurs in processing the message, the AIA will pass an error code back to the CAD Application in response to the initial send request.”) Farrar et al., column 25 lines 16-18).

Consider claim 16, as applied to claim 1. Farrar et al., as modified by Bennett et al., discloses a method wherein message flow of data is in accordance with a pre-established protocol (“Customer Premise Gateway Message Flow Processes. FIGS. 12-16 illustrate the detailed message flows through the CPG. For each message flow, a diagram illustrates the components involved and direction of data flow. There is a detailed description of each message flow broken down for each component in the CPG architecture. The message flows make reference to "message types" within the MMS network. Messages at both the middleware level and protocol level can be described by a type. The relationship, if one exists, between each middleware message type and the corresponding protocol message type is provided in Table 18. “) Farrar et al., column 24 lines 46-57).

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Farrar et al. (US 6122671 A) in view of Bennett et al. (US 7209950 B2) and in further view of Oz et al. (US 7058087 B1).

Regarding claim 14, and as applied to claim 1 above, Farrar et al., as modified by Bennett et al., discloses a method comprising: receiving data from an application, said data being indicative of a message, a destination address, and an outgoing message type; converting said message to an outgoing message in a format compatible with said outgoing message type; and sending said outgoing message to said destination address. However, Farrar et al., as modified by Bennett et al., fails to teach receiving data at different times, not simultaneously. Oz et al. discloses multiplexing basic media data units to provide a multiplexed sequence ((“Basic media data units and modified basic media data units of the first sequence are transmitted during T.sub.1 T.sub.M. Basic media data units and modified basic media data units of the second sequence are transmitted during T.sub.1 T.sub.p. Basic media data units and modified basic media data units of the third sequence are transmitted during T.sub.2 T.sub.L+1. Basic media data units and modified basic media data units of the fourth sequence are transmitted during T.sub.1 T.sub.N.”) column 16 lines 12-20).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate multiplexing basic media data units to provide a multiplexed sequence as taught by Oz et al. with a method comprising: receiving data from an application, said data being indicative of a message, a destination address, and an outgoing message type; converting said message to an outgoing message in a format compatible with said outgoing message type; and sending said outgoing message to said destination address as taught by Farrar et al., as modified by Bennett et al., for the purpose of on-demand data acquisition.

Claims 5, 8-9, 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farrar et al. (US 6122671 A) in view of Bennett et al. (US 7209950 B2) and in further view of DeCoursey et al. (US 6594706 B1).

Consider claims 5 and 20, as applied to claims 2 and 18, respectively. Farrar et al., as modified by Bennett et al., discloses a method wherein a protocol includes a parameter for an outgoing message. However, Farrar et al., as modified by Bennett et al., fails to disclose a method wherein a protocol includes a parameter for an outgoing message indicative of a service provider to use. DeCoursey et al. discloses a method for global routing of electronic messages by encoding an originator's indica with identification of a corresponding service provider from stored database in a gateway control center comprising an indication of a service provider to be used to send an outgoing message (column 11 lines 21-36).

Therefore, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to incorporate a method for global routing of electronic messages by encoding an originator's indica with identification of a corresponding service provider from stored database in a gateway control center comprising an indication of a service provider to be used to send an outgoing message as taught by DeCoursey et al. with a method wherein a protocol includes a parameter for an outgoing message as taught by Farrar et al., as modified by Bennett et al., for the purpose of gateway aggregation.

Consider claim 8, as applied to claim 1. Farrar et al., as modified by Bennett et al. and DeCoursey et al., discloses a method wherein said data is indicative of a service provider to use in said sending said outgoing message to said destination address (DeCoursey et al., column 11 lines 21-36).

Consider claim 9, as applied to claim 8. Farrar et al., as modified by Bennett et al. and DeCoursey et al., discloses a method wherein said sending said outgoing message to said destination address includes sending said outgoing message to said destination address via said server provider (DeCoursey et al., column 11 lines 21-36).

Consider claim 17, as applied to claim 1. Farrar et al., as modified by Bennett et al. and DeCoursey et al., discloses a method comprising: establishing a protocol indicative of how to send a message to a sender of said data (DeCoursey et al., column 11 lines 21-36).

Response to Arguments

Applicant's arguments filed 25 February 2008 with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any response to this Office Action should be faxed to (571) 273-8300 or mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to:

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Mark Fearer whose telephone number is (571) 270-1770. The Examiner can normally be reached on Monday-Thursday from 7:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Mark Fearer
M.D.F./mdf
May 15, 2008

/Ashok B. Patel/

Primary Examiner, Art Unit 215

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